

California Department of Consumer Affairs

Legal Guide K-4

SPANISH LANGUAGE TRANSLATIONS OF CONSUMER CONTRACTS

May 1992

Under California law, a person in a trade or business who, in the course of entering into a contract, negotiates primarily in the Spanish language, orally or in writing, must give the consumer a written Spanish-language translation of the proposed contract.¹

The Spanish-language translation must be given to the consumer before the consumer signs the contract. The seller or creditor must give the consumer the Spanish-language translation regardless of whether or not the consumer requests it. The Spanish-language translation must include the proposed contract terms, such as purchase price, finance charges, payment amount, etc.

The purpose of the law is to insure that the Spanish-speaking person has a genuine opportunity to read the Spanish-language translation of any proposed contract that has been negotiated primarily in Spanish, and to consult with others, before the contract is signed. It is never sufficient for the seller or creditor to give the Spanish-speaking person a Spanish-language translation after he or she has executed (signed) the contract.

If a trade or business that is required to provide a Spanish-language translation fails to do so, the consumer can rescind (cancel) the contract or agreement, in which event the law governing cancellation will apply.² The consumer can cancel the contract even if it has been assigned to a financial institution; but in that event, the consumer can look to the original trade or business for a return of the amounts he or she has paid. If the consumer received any goods, the goods must be returned to the original trade or business.

If a consumer rescinds, the consumer need not pay the financial institution that has received an assignment of the contract. Instead, the financial institution is entitled to return the contract to the original trade or business, and to recover from the original trade or business anything it has paid to the trade or business.

The rule applies to:

- Credit sale contracts involving consumer goods and services of all kinds including automobiles.
 - Virtually all loans or other extensions of credit for use primarily for personal, family or household purposes, except loans secured by real property.
 - Loans secured by real property, if arranged by a real estate loan broker or made by a personal finance company.
 - Contracts for the rental, lease or sublease of apartments or other dwellings (including mobilehomes) for a period longer than one month. (Month-to-month and week-to-week rental contracts are not covered.)
 - Contracts involving the payment of fees or charges for legal services furnished by lawyers.
- The Spanish-language translation need not be given in the following kinds of transactions:
- Home improvement contracts.
 - Contracts involving a seller who is not engaged in a trade or business.
 - Contracts in which the Spanish-speaking consumer has negotiated the contract through his or her own interpreter (with limitations, see below).

However, the last exception applies only if the consumer's interpreter is able to speak fluently and read with full understanding both the English and Spanish languages. Also, the interpreter cannot be a minor (under 18 years of age). Nor may the interpreter be employed or made available by or through the person engaged in the trade or business.

At the same time and place where any contract is entered into following negotiations primarily in Spanish, a notice of the consumer's rights must be displayed. This notice must be written in Spanish and must be

conspicuously displayed. The notice must inform consumers of their rights under this law.

This notice need only be displayed at those locations where the Spanish language is used. (The notice is not required to be given by providers of legal services or those who make or arrange loans secured by real property.)

The business must give the consumer a Spanish-language translation of the original contract and of any documents that modify the original contract. Also, a Spanish-language translation must be given of the original contract or any subsequent documents that substantially change the rights and obligations of the parties. A notice of repossession and deficiency under Civil Code section 2983.2 is a document that substantially affects a consumer's rights under an automobile financing contract.³

However, the law does not require a Spanish-language translation for any later documents authorized by or expected to be made under the original contract or its modifications. Examples of those documents which need not be translated include periodic statements, sales slips, invoices, add-on sales, or refinancings that are provided by or made pursuant to the original contract.

If the contract involves a loan made by a "supervised financial organization" such as a bank, savings association, credit union or personal finance company, the lender need only provide a Spanish translation of the credit disclosures required by the federal Truth in Lending Act. A Spanish-language translation of the remainder of the contract need not be provided. Thus, the Spanish-language translation need only include the amount financed, the annual percentage rate, the amount and due dates of the payments and other relevant credit information -- the most relevant details that the average consumer would be likely to consider before signing a contract.

In interpreting a contract subject to the Spanish-translation law, the signed English contract determines the rights and duties of the parties. However, if there is a substantial difference between the English contract and the Spanish translation, the law states that this may show that no contract was ever entered into.

A person engaged in a trade or business may submit a Spanish-language translation of a contract, agreement or other disclosures to the California Department of Consumer Affairs to verify its accuracy.

The Department of Consumer Affairs is authorized to charge a fee for verifying translations.

No trade or business may advertise or represent that a contract translation has been verified by the Department of Consumer Affairs.

NOTICE: We attempt to make our legal guides accurate as of the date of publication, but they are only guidelines and not definitive statements of the law. Questions about the laws application to particular cases should be directed to a specialist.

Prepared by:

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ENDNOTES

1. Civil Code section 1632.
2. Civil Code sections 1688 et seq.
3. Reyes v. Superior Court (1981) 118 Cal.App.3d 159, 162 [173 Cal.Rptr. 267].
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 2. Civil Code sections 1688 et seq.
 3. Reyes v. Superior Court (1981) 118 Cal.App. 3d 159, 162 [173 Cal.Rptr. 267, 268].